
Board of Adjustment
August 14, 2018
Staff Report

Application Summary –

A request by Phebe LaMar (attorney), on behalf of OTA Properties, LLC (owner), seeking “M-N Pedestrian” standard designation and approval of a 12-foot building height variance on property addressed as 705 and 709 Fay Street which is proposed to be redeveloped with a 3-story mixed-use retail and residential structure.

Designation of the subject property as “M-N Pedestrian” is sought pursuant to Section 29-6.4(j) of the Unified Development Code. The proposed height of the building is not permitted per Sections 29-2.2(b)(2) Table 29-2-7 and 29-4.1(a) Table 4.1-1 of the Unified Development Code.

History and Site Characteristics

This application involves two lots addressed 705 and 709 Fay Street, which are proposed to be combined under the pending “OTA Subdivision Plat 1” and redeveloped with a 3-story mixed-use building. The platting action also included design adjustments to right of way and utility easement dedication requirements. The plat was recommended for approval by the Planning and Zoning Commission on July 5, 2018 and was introduced to City Council on August 2, 2018. At the time the plat was being reviewed by the Planning and Zoning Commission, the sewer capacity within the sewer basin containing the subject lots was undergoing a capacity study. This study has since been completed and the basin has been found to have sufficient capacity to support the proposed redevelopment of the site.

Concurrently with the platting action, the applicant requested rezoning of the subject properties from I-G (Industrial) to M-N (Mixed Use- Neighborhood) to allow the proposed 3-story mixed use building and to support the desired designation of the “M-N Pedestrian” standard. After review of the surrounding land uses, future land use designation, goals and objectives of the Comprehensive Plan, and redevelopment-related concerns and opportunities the Planning and Zoning Commission recommendation approval of the requested rezoning action. This request was also introduced to City Council at their August 2, 2018 meeting. The replat and rezoning actions will be considered for final approval on August 20, 2018.

The subject site is presently improved with a one-story, flat roof building most recently used as an automobile service facility. The site is predominantly paved over with asphalt, with some turf to the rear of the building, and is secured by a chain-link fence. The property is adjacent to the parking lot for the Columbia College Southwell Gymnasium facility on its west and south.

The proposed redevelopment of the site for a mixed-use building would include retail space on the ground floor, 12 residential units, and a rooftop patio. The required number of parking spaces for the building, as proposed, under the M-N designation would be 27 (inclusive of permitted bicycle space and mixed-use building parking

reductions). The applicant's site plan shows 21 vehicle parking spaces. The applicant indicates that they desire to provide a total of 12 bicycles spaces - 4 are required. Should the proposed site be designated the requested "M-N Pedestrian" standard, the parking required would be reduced to a total of 19 spaces (inclusive of "shared" and bicycle space reductions as well as a 30% reduction permitted per M-N Pedestrian standard).

A concurrent request for a variance to the parking to allow six fewer parking stalls (27 required minus the 21 provided) has been submitted for Board review as Case #1963. This case may become unnecessary should the "M-N Pedestrian" standard be found appropriate (see discussion below and the staff report for Case #1963).

Relief Sought and Purpose

The applicant is seeking approval of two separate actions contingent upon City Council approval of the proposed M-N zoning designation of the subject property. Should the City Council deny the rezoning, the present zoning of I-G does not support a pedestrian standard, does not allow residential uses, and does not have a height restriction for primary buildings.

The first action requested by the applicant is to seek designation of the subject property as an "M-N Pedestrian" standard site. Such designation would reduce the front yard setback requirement from 25 feet to a minimum of zero feet and a maximum of ten feet.

The second requested action requested by the applicant seeks approval of a 12-foot height variance to permit construction of a new 3-story mixed-use building with a maximum height of 47-feet within the M-N district. The stated purpose for the additional 12-feet is to accommodate an elevator bulkhead and stair tower. Maximum building height within the M-N district is 35-feet regardless of whether the pedestrian standard is applied. It should be noted that per section 29-4.1(c) [Height Exception] of the Unified Development Code building improvements such as parapet walls and elevator bulkheads are permitted to project an additional 6-feet beyond the maximum height imposed by the zoning district. Given this exception, the maximum building height within the M-N district would be a total of 41-feet.

Application of "M-N Pedestrian" Standard Analysis –

Summary and Impacts –

The applicant is seeking the designation of the "M-N Pedestrian" standard upon the subject parcels. Such designation requires Board approval pursuant to the criteria listed in Section 29-6.4(j) of the Unified Development Code. The purpose and intent of the M-N district is outlined by Section 29-2.2(b)(2).

The purposed of the M-N District is to provide commercial shopping and service facilities in or near a residential neighborhood. The principle uses are small-scale commercial and residential, and the application of the "pedestrian" standard is intended to provide a second set of development standards without the need for rezoning to a Planned Development district in areas where residential densities support pedestrian-oriented shopping areas with walkable connections to surrounding neighborhoods.

The “pedestrian” standard also allows for a reduction in parking, emphasizing pedestrian networks, bicycle parking, and site layouts with buildings pulled forward to the sidewalk and less space allocated for surface parking. Pedestrian-oriented mixed uses in this zone may also combine this parking reduction with the UDC’s shared parking reduction factor should the site’s use mix have complementary/offset peak parking demands. [Paraphrased]

As noted in the case history above, the applicant has sought to rezone the subject parcels from IG (Industrial) to M-N (Mixed-use Neighborhood). In evaluating that request and ultimately arriving at a recommendation that was forwarded to City Council for approval of the change, staff and the Planning Commission considered the greater context of the surrounding block and the land use patterns within it. The subject parcels are located on the west side of Fay Street, midblock, south of Wilkes Blvd. and north of the Colt Rail Line and Hinkson Avenue. They are directly adjacent to I-G zoning on all four sides.

However, the greater context of the overall block’s zoning and land use pattern is much more diverse. The block contains a mixture of M-C (Mixed Use- Corridor), HP-O (with mixed uses), R-MF (Multi-Family Dwelling), C-2 (Central Business District), and M-N zoned property. South of the parcels is the Brown Shoe Factory (northwest side of Wilkes and Fay) and to the north of the parcels is the Wright Brother’s Mule Barn (northwest corner of Hinkson and Fay). Both properties are on the National Register of Historic Places and have been restored and converted, respectively, from a factory to office space and from a mule barn to a mixed use building.

The overall area has been transitioning in recent years from former industrially used lands, reliant on the COLT Railroad, to the location of an expanded footprint of Columbia College as well as investments in new business such as Logboat Brewery to the southeast, and infrastructure investments by the City along Range Line Street to the west. Much of the mid-block property, including the property immediately to the west, is zoned I-G and owned by Columbia College. These sites are used for a mixture of purposes common to a college and are subject to the College’s Master Plan (last updated in 2017). While such lands would typically be zoned residential the preponderance of Columbia College-owned I-G property in this area is due to many years of land acquisition rather than actual industrial uses on the parcels. This mismatch in zoning is permitted by the UDC and is not inconsistent with the Comprehensive Plan’s land use designation for the area.

The remaining properties in this block that are IG zoned generally consist of one-story, non-descript buildings and are on the lower spectrum of intensity in terms of what the IG district allows. The Planning Commission and staff, in evaluating the requested M-N rezoning gave consideration to the risks of bringing residential uses and pedestrian-oriented design into this historically industrially-developed area. Consideration of noise, air quality, heavy truck traffic and other potential health, safety and incompatibility concerns were evaluated. In arriving at its recommendations, the Planning Commission and staff concluded that the uses in the area were not of a heavy industrial character and the area may be attractive for students and young professionals wanting to walk to campus and the Downtown District. These findings were supportive of the transitioning character of the area and not inconsistent with Comprehensive Plan’s designation of the subject properties as lying within the City Center.

There are four off-street parking spaces available on Fay Street adjacent to site and the proposed redevelopment will not increase or decrease their availability to the public. Required on-site parking has been

shown as being provided on the attached site plan dated July 18, 2018. The total number of parking spaces shown on the plan may vary based upon the outcome of this designation request. A concurrent variance (Case # 1963) seeks a reduction from the standard parking required within the M-N district should the designation as “M-N Pedestrian” not be approved. If approved, the parking spaces shown on the attached site plan will meet code requirements. The redevelopment of the parcel is not anticipated to create additional parking congestion or risks to public health and safety in the surrounding area.

The designation of the “pedestrian” standard for the M-N zone versus the more auto-dependent standard M-N design offer additional safety elements by providing enhanced pedestrian elements such as a reduction in automobile trips and congestion, potential “Crime Prevention Through Environmental Design” (CEPTED) benefits by allowing additional “eyes on the street” through more pedestrian activity/street-level viewsheds, and a reduction of “dead” spaces such as surface parking lots and large front yards.

The proposed retail on the first floor will serve residents living in the twelve apartments, as well as pedestrians on the Columbia College Campus attending class and living in on-campus housing, as well as the larger North Central Columbia Neighborhood, which is predominantly residential in nature to the north, west and south of Columbia College. Furthermore, staff believes this area is likely to continue to transition toward a mixed use, pedestrian environment due to its location, historical landmarks, and adjacency to the North Arts Village and Downtown Districts.

Urban infill redevelopment, mixed use, and multi-modal transportation options are promoted by the Columbia Imagined Plan. This project has the potential to continue the investment and changes in the neighborhood from lower-intensity industrial properties to mixed use, with an emphasis on pedestrian-oriented development near the City Center. The Columbia Imagined Future Land Use Map (FLUM) classifies this area as City Center, which supports a mix of uses at a pedestrian scale.

Compliance with Optional Development Standards Approval -

Staff has reviewed the “Criteria for Approval” as articulated in Section 29-6.4(j)(3) of the UDC that grants the Board authority to designate a property as being eligible to be developed utilizing the “optional development standards” and finds that:

1. The use of the “M-N Pedestrian” standards upon the subject parcels is consistent with the intended character of the area as shown and described in the City’s adopted Comprehensive Plan and evidenced by the transitioning of the existing land use patterns;
2. Approval of the “M-N Pedestrian” standard upon the subject parcels will result in the provision of adequate off-site parking spaces as shown on the proposed redevelopment plan dated July 18, 2018 and will not result in significant increases in off-site parking on sections of local neighborhood streets other than those immediately fronting the applicant’s property; and
3. The use of the “M-N Pedestrian” standard will not create additional traffic congestion or risks to public health and safety in the surrounding area.

Building Height Variance Analysis –

Summary and Impacts –

The applicant is also seeking a building height variance from the maximum 35 foot height standard allowed in the M-N zoning regardless of the application of the “M-N” Pedestrian Standard. The proposed 3-stories of the building meet the height standard for the M-N zone as they are only 34-feet in height from grade. The purpose for the variance is to accommodate the additional height of the parapet, elevator bulkhead, and stair tower. These improvements constitute an additional 12 feet- 11 inches of building height thereby resulting in a building of 46-feet -11-inches. The requested 12-foot variance allows for 1-inch of building height variation.

The applicant has indicated the variance will provide handicapped accessible access to the rooftop patio for residents and customers. It will also provide an outdoor amenity space for building patrons, which is in keeping with the pedestrian-oriented design sought for the site by allowing additional viewsheds and connectivity between the sidewalk, the street, and the users of the building.

In evaluating the variance request, staff reviewed the information provided by the applicant. It would appear that the applicant’s assessment of the height restrictions applicable to the M-N district overlooked the height exception for parapets and elevator bulkheads permitted per Section 29-4.1(c) of the UDC. This section permits parapets and elevator bulkheads to project 6-feet beyond the maximum height of the zoning district. This exception means that the maximum allowed height in the M-N district is actually 41-feet when a parapet or elevator bulkhead is part of the proposed site improvements as is the case with this request and as shown on the attached architectural exhibit.

Based on this finding, the maximum variance necessary to accommodate the building depicted on the attached architectural exhibit is 6-feet, not the 12-feet requested. This measurement takes into account that a maximum height of 41-feet is permitted in the M-N district when structures incorporate parapets and elevator bulkheads. It should be noted, however, if architectural adjustments were made to the proposed floor-to-ceiling heights the overall building height could be reduced such that compliance with the maximum 41-foot height restriction could be achieved.

Compliance with Variance Criteria -

Staff has reviewed the “General Criteria” for the approval of a variance as articulated in Section 29-6.4(d)(3)(i) of the UDC. In relation to these criteria, staff finds that:

1. The applicant proposes to raze the existing structure and build a new building. As such the variance will not address practical difficulties or unnecessary hardships related to the applicant’s site, or difficulties or hardships not generally applicable to property in the area, and will not address difficulties or hardships not created by the actions of the applicant.

2. Approval of the requested variance would not result in permitting the construction of a building not otherwise allowed in the M-N (Mixed Use- Neighborhood) district or modify a standard contained with the definition of any use.
3. Approval of the requested variance would not result in permitting development inconsistent with the Comprehensive Plan. The subject site is located within a “City Center” district and the proposed use is consistent with that designation. Staff notes the rooftop patio would provide building patrons, may help the building be more successful, and may enhance the desired pedestrian-oriented design desired by the applicant.
4. As stated in staff’s analysis, a 6-foot variance is all that is required to permit the proposed construction as depicted in the attached architectural exhibit. A lessor or potentially no variance may be possible if architectural changes are made that adjust floor-to-ceiling heights within the structure. There has been no evidence supplied by the applicant indicating why such adjustments are not possible.
5. The variance is unlikely to harm the public health, safety, or welfare or be injurious to other property or improvements in the area where the property is located.

Recommendation Action –

1. **Approval of the designation of the “M-N Pedestrian” standard subject to Section 29-6.4(j) of the Unified Development Code to allow optional design and site standards to promote a pedestrian-oriented environment subject to City Council approval of the requested M-N district rezoning request.**
2. **Disapproval of a variance to the height of the building as permitted under Section 29-2.2(b)(2) Table 29-2-7 and 29-4.1(a) Table 4.1-1 of the Unified Development Code to allow a building height of 47 feet, 6 feet above the maximum building height of 41 feet as allowed by the M-N zone with the permissible height exceptions for parapets and elevator bulkheads.**